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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,694	12/01/2003	Neil C. Young	019491-004610US	2546
58201 7590 06/23/2009 TOWNSEND AND TOWNSEND AND CREW LLP/EA TWO EMBARCADERO CENTER 8TH FLOOR SAN FRANCISCO, CA 94111				
EXAMINER				
SAGER, MARK ALAN				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
06/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/725,694

Applicant(s)

YOUNG ET AL.

Examiner

M. Sager

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-13, 17-24, 42-44 and 47-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-13, 17-24, 42-44 and 47-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Terminal Disclaimer

1. The terminal disclaimer filed on 3/4/09 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6955605 has been reviewed and is accepted. The terminal disclaimer has been recorded.
2. Claims 1-4, 6-13, 17-24, 42-44 and 47-58 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6669564 in view of Commander Keen or admitted prior art in instant background. Young claims receiving information regarding a user's current state in the game, wherein the episode is made available responsive to determining whether the user has submitted payments for the episode that pertains to permitting access to content as claimed herein but lacks current real-world event but lacks deconstructing storyline. Commander Keen and background of admitted prior art in instant background (1:11-2:23) discuss constructing a storyline and deconstructing storyline into game modules. Also, it is known in gaming to add current real-world event(s) such as in trivia games to add questions regarding current real world events or in sports simulation games to add/update current player performance statistics in the next game module as well as provide updates/patches for download on manufacturer/distributor website. It is maintained by Office that claimed game module include expansion packs, fixes, patches as well as subsequent game(s) in a series (as evidence only under MPEP 2144.03 and/or 2131.01 regarding providing game module as expansion pack, fixes, patches, and/or subsequent game see the Commander Keen series 1-6, sequential sport simulations that use player performance statistics such as John Madden Football series, Tony LaRosa baseball series, Ultima Online game updates, patches, fixes, expansions and admitted prior art discussing MYST, where its sequel was RIVEN) Thus,

it would have been obvious to an artisan at a time prior to the invention to apply the process of deconstructing a storyline into a plurality of episodes as taught by Commander Keen references and admitted prior art in instant background to improve the method of Young for the predictable result of setting a storyline to chapter/series distribution.

Response to Arguments

3. Applicant's arguments with respect to claims 1-4, 6-13, 17-24, 42-44 and 47-58 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Sager whose telephone number is 571-272-4454. The examiner can normally be reached on T-F, 0700-1730 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. Sager/
Primary Examiner, Art Unit 3714